

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

AMANDA BEYER,

Plaintiff,

Case No. 21-cv-514-pp

v.

MICHELS CORPORATION,

Defendant.

**ORDER REMINDING PLAINTIFF OF OPTION TO FILE AMENDED
COMPLAINT IN LIEU OF RESPONDING TO DEFENDANT'S MOTION TO
DISMISS (DKT. NO. 15)**

On June 14, 2021, the defendant filed a motion to dismiss the complaint under Federal Rule of Civil Procedure 12(b)(6). Dkt. No. 15. The defendant argues that the plaintiff fails to state a claim for overtime pay for her alleged pre-shift hours, she fails to state a claim that a bonus must be included in the regular rate under either federal or state law, she fails to state a claim for compensable meal breaks under federal law, and her state-law claim for unpaid lunch periods should be dismissed under the supplemental jurisdiction statute. Dkt. No. 16 at 12-24.

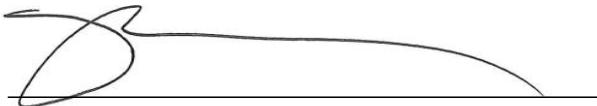
Under Civil Local Rule 7(b), if the plaintiff wishes to oppose the motion she must do so within twenty-one days—that is by July 6, 2021 (this is actually twenty-two days, but the court takes into consideration the Independence Day federal holiday). The plaintiff is free to timely file a response to the motion to dismiss, but the court reminds the plaintiff that she has

another option—she may file an amended complaint to try to cure the alleged deficiencies. See Runnion ex rel. Runnion v. Girl Scouts of Greater Chi. and Nw. Ind., 786 F3d 510, 522 (7th Cir. 2015) (explaining that a responsive amendment may avoid the need to decide the motion or reduce the number of issues decided). Fed. R. Civ. P. 15(a)(1) allows the plaintiff to file the amended complaint as a matter of course within twenty-one days after service of the responsive pleading.

The court **ORDERS** that by July 6, 2021 the plaintiff shall file either an amended complaint or a response to the motion to dismiss.

Dated in Milwaukee, Wisconsin this 15th day of June, 2021.

BY THE COURT:



HON. PAMELA PEPPER
Chief United States District Judge